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Open Letter from International Platform of Jurists for East Timor and CIIR to UN Secretary General

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General Secretary: Ian Linden

Dr Boutros Boutros-Ghali
Secretary-General
The United Nations
New York

5 December 1992

Your Excellency,

We have the honour to write to you as lawyers, experts in international law, drawn from several countries of the world, who have gathered in London to examine the questions of law arising from Indonesia's continued occupation of East Timor, in defiance of the acknowledged right of the people of East Timor to self-determination.

We recall that there are certain non-derogable human rights which appear in the Universal Declaration on Human Rights and are part of customary international law. Under international humanitarian law and under international human rights law, every East Timorese is entitled to due process and fair trial rights.

We have received reports concerning the arrest and detention of Xanana Gusmão on 20 November 1992 and of many other East Timorese both before and after his arrest, as detailed in Amnesty International's urgent actions nos. 366 and 367/92. The reports strongly suggest that Indonesia has violated the following rights:

1. The right not to be arrested under any legal provision introduced by Indonesia which does not comply with Articles 64 and 65 of the Fourth Geneva Convention of 1949, and not to be removed from the territory of East Timor. Indonesia's *Anti-Subversion law* under which, we understand, he is being held, is not essential to enable Indonesia to fulfil its obligations under the Convention.
2. The right to be promptly informed, in writing, in a language which he understands, of the particulars of the charges preferred against him.
3. The right
   (a) not to be subjected to physical or moral coercion, in particular to obtain information from him or from third parties; and not to be subjected to any measure of such a character as to cause physical suffering, including torture and any other measures of brutality whether applied by civilian or military agents; and
   (b) the concomitant right not to be compelled to testify against oneself or to confess guilt.

We are most perturbed that Mr Gusmão has been presented on television, evidently speaking under duress. Moreover, members of his family are being held hostage contrary to Article 34 of the Convention, and subjected to inhumane and degrading treatment.

4. The right to all necessary rights and means of defence.
   More particularly:—
   (a) the right to present evidence necessary to his defence . . . and call witnesses; and
   (b) the right to be assisted by a qualified advocate or counsel of his own choice, who shall be able to visit him freely and shall enjoy the necessary facilities for preparing the defence.

Mr Gusmão has been held incommunicado since his arrest.

Given the breaches of the above rights, we demand the immediate release of Mr Gusmão and all other detained East Timorese. Such breaches make it impossible for any of the individuals detained to receive a fair trial. Therefore any such trials will be unlawful.

We are confident that you will continue to urge the relevant organs of the United Nations to take all necessary measures to bring about the self-determination of the people of East Timor, and to ensure that, pending its withdrawal from that territory, Indonesia will abide by its obligations as a belligerent occupant.

We ask you to use your good offices to make it plain to Indonesia that these matters constitute grave breaches of Indonesia's international obligations, and that the individuals responsible for them have corresponding international criminal liability.

Yours respectfully,

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